

a denial of equal protection of rights discriminating between secondary and elementary school pupils as opposed to those in higher education. Isn't that exactly what you have done?

MS. FREEMAN: Delegate Lockridge, would you or a designee respond for the committee, please?

MR. LOVE: I am sorry. We provide for a free uniform public education up until age 18 or until the 12th grade. The state is providing that. It is not discriminating against anybody.

After that age, it is possible that it will take the state several years for the university to develop medical schools, law schools, certain kinds of technical schools. We will allow the state, under this provision, to send students by giving them some sort of subsidy to go to a local medical school or to go to a local law school until such time as the state might develop its own law schools and medical schools.

But it has no discrimination because the state provides up to secondary education. I don't know if Mr. Kameny made it clear. I want to make it clear to you that if you vote of Mr. Cooper's amendment, you are voting for tuition tax credit. That is exactly what this section forbids.

This section forbids the kind of tuition tax credit that certain people tried to get on the ballot and tried to

get passed. If you delete this section, then you will allow tuition tax credits. It's very simple.

MS. FREEMAN: Is there anybody opposed to this? Delegate Corn. I mean in favor of the Cooper amendment. I'm sorry.

MS. CORN: I have a question I would like to ask the committee.

MS. FREEMAN: Yes.

MS. CORN: Okay. In the City of New York there are three very specialized public high schools. One is for art and design; one is music and art; and one is the Einstein School of Science. Now, I don't have any children and so I'm not as knowledgeable as many of you are in this room about the public education offered in the District currently.

Okay. I know that we have a school here specially like for kids who are good in drama. But do you have a school that's especially for kids in sciences?

MS. LOCKRIDGE: Yes, we do. Ballou.

MS. CORN: Is there one especially for the kids, not drama but like music and art and sculpture?

MS. LOCKRIDGE: The school of performing arts, Duke Ellington.

MS. CORN: These are all public schools?

MS. LOCKRIDGE: Yes.

MS. CORN: And no matter where you live in D.C. you can go to them?

MR. LOCKRIDGE: Yes.

MS. FREEMAN: I think your question has been answered, Delegate Corn. Delegate Jordan, you had your hand up?

MR. JORDAN: Yes. I wanted to ask the committee one question. They know where I'm going to be coming from.

MR. KAMENY: No, as a matter of fact, we don't.

MR. JORDAN: I'm going to raise this question about pre-elementary.

MS. FREEMAN: I think it is appropriate to raise that at the proper time. We are on the Cooper motion to strike (b)(1). Delegate Jordan, did you wish to speak to that?

MR. JORDAN: I was going to say would you recognize me when you get to that point.

MS. FREEMAN: If you also indicate to me when we get to that point. Thank you. Delegate Robinson.

MR. ROBINSON: I would move the previous question.

A DELEGATE: Second.

MS. FREEMAN: All right. We'll have a vote and then if we do close debate, then I will call on Delegate Cooper who has not yet spoken to his own amendment.

All those who are in favor of closing debate on the motion to strike (b)(1) please say aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

(No response.)

MS. FREEMAN: All right. Debate is closed except for Delegate Cooper.

MR. COOPER: Fellow delegates, as was purported by several delegates in the discussion, I'd like to just respond to Mr. Kameny that this amendment does not fly in the face of what the voters voted for in November.

It is not my intention at all to revive any tuition tax credit that was soundly voted down. As a matter of fact, I won't stand here like several other speakers and say that I worked against the initiative, but I did.

Much like Delegate Corn I, too, don't have any children in the District of Columbia public school system as of yet but I certainly hope to--(simultaneous discussion.)

MR. COOPER: I would like to point out that I did accept this committee's report with a great deal of delight because I thought it was a good report and a lot of good proposed articles.

And I think the reason for that is because they

presented it couched in a manner of being for the children and in behalf of the children, and I just don't think Section 1 is for the children.

It denies the state the ability to provide support for the attendance of children in public school, and I think if we're about statehood and if we're about having a good state, we have to have children who can grow up to lead this state and carry this state on.

And I think that Section 1 won't support that. I don't think that this is in violation of any existing statutes. I don't think this is going to harm the state, certainly not harm the state's budget.

I'd like to point up a particular case in point, the 1947 New Jersey bus case which was similar to this. Several public school parents and civic associations protested when the state decided to provide bus fare and subway fares for parochial school children to attend schools.

This is true, Delegate Simmons.

MS. SIMMONS: I didn't object. I said it's called "proch-aid". They have it in a lot of states.

MR. COOPER: That's right, and I think this is something that's necessary because under the child benefit theory, this would not be aid to the church. This would not be aid to

any sectarian or parochial institution. This would only be a benefit for the child.

This section, as I said before, would deny the state the ability to allow a child of the state to attend a private institution in the state, and I think that if our children so desire not to attend a public institution, the state still has the responsibility to provide for that child who is a citizen of the state.

That is why I make the amendment to strike Subsection (1), and I would hope that my fellow delegates would support it in the name of our children.

MS. FREEMAN: The motion on the floor is to strike Subsection (b)(1). All those in favor of that motion please say aye.

(A chorus of ayes.)

MS. FREEMAN: Point of order, Delegate Thomas?

MR. THOMAS: I just returned back to the convention. Could I ask for a reading of Delegate Cooper's motion?

MS. FREEMAN: The motion is to strike Subsection (b)(1) on page 7. All those in favor of the motion please say aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

(A chorus of naves.)

MS. FREEMAN: Abstentions?

(No reponse.)

MS. FREEMAN: The motion is defeated.

Delegate Lockridge. The motion on the floor is to adopt Subsection (b), is that correct?

MS. LOCKRIDGE: Yes.

MS. FREEMAN: Is there further discussion on that motion? Delegate Jordan.

MR. JORDAN: In the previous discussion there was a concern expressed. I want to ask a question first.

MS. LOCKRIDGE: I can't hear you.

MR. JORDAN: In the previous discussions that occurred on the amendment that was proposed by Delegate Cooper, there was a discussion about facilities not being provided by the state, and therefore since the facilities were not provided by the state, they would not be covered.

Now, I made that point because in Section 4(b)(1) there's the insertion of pre-elementary, and again, I would like to point out that pre-elementary is not required of the state. It is not to be provided by the state. The state is under no obligation to provide it.

So what I'm trying to find out is why can't this be

stricken or deleted, the reference to pre-elementary. The argument was that it's all right to give money to those student who are in universities, colleges because they might have programs which are not offered by the state.

That is to say, you could send a student or you could provide funds for a student who went to law school or funds for a student who went to medical school, because the state didn't provide those, and you could provide those funds to the students in non-state institutions.

Now, on the front--this is on the back--on the front end before you even get into school, they're saying that the state cannot provide moneys for students who want to go to the pre-elementary schools, even though it says that the state will not have to provide facilities for those students who want to receive pre-elementary education.

So I just raise that point.

MS. LOCKRIDGE: Delegate Love, would you like to respond to him?

MS. FREEMAN: Delegate Love.

MR. LOVE: I understand Delegate Jordan's concern, but I'd like to point out that to some extent the logic is the same as we have put forth in the beginning. That is, some people would claim that the state does not provide a Christian

education. Therefore, the state should allow them to take their children, put them in a Christian school and should help support them.

At the same point, we did not feel that we wanted to require the state to provide preschool education. The state could provide preschool, but it's not mandated.

We are opposed to school money going away from the schools into other types of programs. If the program is a day care center and they don't call it a preschool program, then there would be no problem.

But our feeling is that if it relates to education, that we have provided for a good education for children. If parents want some other kind of education, they have that right, but the taxpayer shouldn't pay to support it. And that's simply what we've said here.

MS. JONES: We're talking about preschool education.

MR. LOVE: Yes or Christian education or any other kind of education.

MS. FREEMAN: Delegate Jones.

MS. JONES: I believe Delegate Jordan is talking about preschool education because children should go to some kind of formal education starting at three years old, and I think the state now provides for prekindergarten classes run

by the D.C. Recreation Department.

They run sort of as time cooperatives. You should support this, Rothschild. And the time cooperatives allow you to bring your child and leave your child for two hours so he goes through an educational process there, because you're paying that by spending two hours there of your time because somebody else will watch your child for two hours of their time.

I think that ought to be supported by the state as it is now, and the D.C. Recreation carries those on. There are other pre-education kinds of situations that children are in, and I think that the state, you know, should not exclude those children.

I think that's what Delegate Jordan was talking about. I don't think he's talking about church schools and religious kinds of things.

MS. FREEMAN: Delegate Simmons.

MS. SIMMONS: I certainly appreciate what Delegate Jones is saying, but "shoulds" and "oughts" are not always affordable by a government. You know, all children should have three square meals a day, well balanced and of nourishing food.

The fact that they don't all get it does not mean that we will, therefore, mandate it in our constitution, but I

agree with you that it should and ought to happen.

I think by the same token when we talk about pre-school as a "should" and "ought", you know, I believe strongly and I have lots of emperical evidence to prove that children should and ought to have a foreign language experience at age 18 months on, but that is not something that we can afford as a public body to mandate in a constitution.

What we're trying to do in this instance is to--

MS. FREEMAN: Excuse me, Delegate Simmons. I'm having a hard time hearing and so are a number of other delegates. Could Delegates Love and Jordan please speak in the back of the room or whisper? Thank you. Delegate Simmons.

MS. SIMMONS: I'm saying this for Delegate Jordan's benefit so I have difficulty. Maybe I should just forget it. (Laughter.)

MS. LOCKRIDGE: I need to share with you the thinking of the committee. We had looked at for a long time putting the compulsory age--Teresa, I'm talking to you--thought about putting the compulsory school age at three, three years, beginning at three for all those reasons you just spoke to and I've heard other folks speak to.

But we had to think about cost, number one, and also we were still hoping that with this big money that is going to

be allotted the public school system, that pre-elementary education will be provided for.

MR. T. MOORE: A point of information, Madam Chair. When you're talking about preschool, the payments of these children that we are talking about as pre-elementary, I think you must realize that the parents have a certain amount of responsibility for their education.

If you're saying you can afford to take their children, I think you are wrong. You are implying--

MS. LOCKRIDGE: We are not implying. We are saying that there are some people out there at three years of age who are ready for school, but unfortunately, financially we cannot provide that across the city.

MS. FREEMAN: Delegate Rothschild.

MR. ROTHSCCHILD: I can understand the problems of being able to finance preschool education but I'm still concerned that we're locking ourselves out of this. I mean, we are setting the ages of between 6 and 18. We're closing off our options to work with the private sector.

The younger years are probably more important than those upper years. Those younger years are probably more important to the determination of the success of that individual throughout life than are those lower years.

Now, we are locking everything in. We are locking it in and throwing away the key, and we are encouraging education between certain years and education only with certain types of institutions, and we are just, again, foreclosing our future possibilities.

MS. FREEMAN: All right. Delegates, the motion on the floor is the adoption of Subsection (b) of Section 4. Is there more discussion on that?

Delegate Jordan, did you wish to make an amendment on yours?

MR. JORDAN: Yes, I did.

MS. FREEMAN: All right. Delegate Jordan. If you wish to make an amendment, please present it to the body.

MR. JORDAN: I want to move that we strike pre-elementary.

MS. FREEMAN: Is there a second to that? Could you please repeat your motion, Delegate Jordan?

MR. JORDAN: I am asking on line 6 we strike pre-elementary.

A DELEGATE: Second.

MS. FREEMAN: It's been moved and seconded that on line 6 we strike the words "pre-elementary". Is there a discussion on that motion? Delegate Robinson.

MR. ROBINSON: I move the previous question.

MR. KAMENY: Second.

MS. FREEMAN: It's been moved and seconded that we close debate on the Jordan amendment. All those in favor of closing debate please say aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

(No response.)

MS. FREEMAN: All right. The motion on the floor is to strike the words "pre-elementary" in line 6. All those in favor please say aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

(A chorus of nays.)

MS. FREEMAN: I'm going to ask for a show of hands. All those in favor of striking pre-elementary please raise your hand and keep them up. Striking the word "pre-elementary" on line 6.

(A show of hands.)

MR. COOPER: Twelve.

MS. FREEMAN: All those opposed please raise your hands.

(A show of hands.)

MR. COOPER: Fifteen.

MS. FREEMAN: Abstentions.

(No response.)

MS. FREEMAN: The motion is defeated.

Delegate Robinson.

MR. ROBINSON: Madam Chair, I move the previous question.

A DELEGATE: Second.

MS. FREEMAN: All right. It's been moved and second-
ed that we close debate on the adoption of Subsection (b)
Section 4. All those in favor please say aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

(A chorus of nays.)

MS. FREEMAN: All right. Debate is now closed on
Subsection (b). All those in favor of adopting Subsection (b)
Section 4 please say aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

(A chorus of nays.)

MS. FREEMAN: Abstentions?

(No response.)

MS. FREEMAN: Subsection (b) is adopted. Delegate
Lockridge.

MS. LOCKRIDGE: Madam Chair, I move the adoption of Section 4(c).

A DELEGATE: Second.

MS. FREEMAN: It's been moved and seconded that we adopt Subsection (c). Is there a discussion on that? Delegate Robinson.

MR. ROBINSON: Madam Chair, I have given to the appropriate person in charge of amendments an amendment to Section 4(c), line 17. I should like to remove the word "handicapped" that immediately precedes the word "from" and in its place I should like to place the word "disabilities."

And if you so please, I retain the right to speak last.

MS. FREEMAN: Is there a second.

A DELEGATE: Second.

MS. FREEMAN: It's been moved and seconded that on line 17 we replace the word "handicaps" with the word "disabilities". Is there a discussion on that? Delegate Simmons.

MS. SIMMONS: Delegate Robinson shared with us before, and I think we all considered and acknowledge that handicapped is not the preferred word by persons with disabilities. I think we could save some time by acknowledging

his having brough that to our attention this day.

Everywhere in the document and other documents give direction to the final drafting committee that that be recognized and maintained in a consistent manner, Delegate Robinson.

MS. FREEMAN: Is that a substitute motion?

MS. SIMMONS: Yes. I would like to substitute that motion so it would be all prevailing if we could, Delegate Robinson, not just for each section but as we move through the document.

MS. LOCKRIDGE: I second that.

MS. FREEMAN: It has been moved and seconded that we make a substitute motion that throughout this document, I suppose, including this article and throughout the entire constitution, Delegate Simmons?

MS. SIMMONS: Yes.

MS. FREEMAN: That throughout the constitution where the word "handicaps" appears that we use the word "disabilities" Is there a discussion on that motion? Delegate Corn.

MS. CORN: I'd like to amend the substitute motion by saying "physical or emotional handicaps and learning disabilities."

VOICES: No.

MS. CORN: So it covers the full spectrum.

MS. SIMMONS: When you say "disabilities" you mean all.

MS. CORN: Will it cover that?

MS. LOCKRIDGE: Yes, if you have a disability.

MS. CORN: Disability would cover emotional?

MS. FREEMAN: Excuse me. Delegate Corn has the floor

MS. CORN: I was moving an amendment to the substitute motion. I would like to ask the committee in full if my substitute is unnecessary. May I ask Delegate Lockridge if you use the word "disabilities" does that mean, for instance, a severely emotionally disturbed child?

MS. FREEMAN: Delegate Lockridge.

MS. LOCKRIDGE: Yes, it does, but let me be very honest with you. If the public schools cannot offer what that child needs in the public schools and only if, then you will notice it says that the state may provide or pay tuition at a private school so that that student can get that service if and only if.

MS. SIMMONS: That is not her question.

MS. LOCKRIDGE: Her question is emotionally disturbed. I am responding to that.

MS. SIMMONS: Does "disabilities" cover all disabilities

MS. LOCKRIDGE: Let me respond to what I feel she asked me. What I was responding to was emotionally disturbed that she asked me, right? Then if you're asking me, Ms. Corn, if it covers all disabilities, yes, it does.

But I still want to make clear to you, and that is what I am getting at, that if the public school cannot provide it, does not have the services for it, then the state may pay tuition at a private school, and only if.

The word "disability" covers the entire spectrum, emotion, mentally, emotional, all of that.

MR. KAMENY: For the third time, yes.

MS. FREEMAN: Thank you. Delegate Robinson.

MR. ROBINSON: I move the previous question.

MR. KAMENY: Second.

MS. FREEMAN: It's been moved and seconded to close debate on the substitute motion which is that throughout this constitution where the word "handicaps" appears we will use the word "disabilities". All those in favor of closing debate please say aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

(A chorus of nays.)

MS. FREEMAN: All right. Debate is closed. I just

earlier repeated the motion. It's not necessary probably to repeat it. All those in favor of the substitute motion please say aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

(A chorus of nays.)

MS. FREEMAN: Abstentions?

(A show of hands.)

MS. FREEMAN: The substitution motion carries.
Delegate Oulahan.

MR. OULAHAN: Madam President, I urge my fellow delegates to vote against Subsection (c) even with the substitution. This is a perfect example of the inhedious discrimination which this article is promoting.

There is not anybody in this room who does not support the idea that handicapped children who can be taken care of in the public schools should not be allowed and given tuition and help in a private school. No one doubts that.

But that, to my mind, shows the interdependence of the two types of school systems which this article is trying to tear asunder. I am going to vote against the artilce not because I don't believe in it but because I think it sets up the kind of discrimination and lack of equal protection that

I've been talking about.

MS. FREEMAN: Delegate Harris.

MS. HARRIS: Madam Chair, as a former public school teacher, and being aware of several parents who have had children in the D.C. public school system in which they had to have certain kinds of private care for those students and the system could not provide it, this is a very good safeguard.

I urge all of you to support this. I know of particular incidents in which parents had to seek other kinds of education for their children that the D.C. public school did not provide, and this does safeguard against that, and I urge you very strongly to support 4(c).

MS. FREEMAN: Delegate Corn.

MS. CORN: I have two more amendments to Section (c). Would you like to to give them ad seriatim or together.

MS. FREEMAN: Let's hear them all together, and we may deal with them ad seriatim.

MS. CORN: Okay. I'd like to add after the word "tuition" in line 16 "anywhere within the United States." And then I would like to add after the word "disabilities" the phrase "as determined by" blank, and I would like the body to establish the blank.

The idea being in the first one--

MS. FREEMAN: Wait. I'd like to have a second and we'll take them one at a time.

A DELEGATE: Second.

MS. CORN: The idea in the first part to say the state may provide the private school tuition of a particular student, the private school tuition anywhere in the United States is that let's say there is not a private--let's say that a child has a certain kind of handicap, and no school in the District of Columbia, private or et cetera or hospital, can provide that child the kind of physical access or emotional support that that child needs in order to be able to benefit from an education.

But let's say Mass General Hospital has a section there specifically that would be geared to that or a hospital in Texas has a part of that hospital that is specifically geared to it.

I know, for instance, Mass General does have a private school that is very specifically geared toward the emotionally handicapped children. I would like to be able to say if it's one of our kids, they can go anywhere in the United States.

But I want to, also, by doing that, say the parents can't arbitrarily say, "Well, that school in Massachusetts is

not quite as good as the one in Switzerland."

MS. FREEMAN: Is there further discussion? Delegate Kameny.

MR. KAMENY: Delegate Corn's motion was the intention of the committee. That is that is the present practice. No further language is needed. I suggest we vote it down. It would be totally unnecessary. I would call the previous question.

VOICES: Second.

MS. FREEMAN: Delegate Corn, perhaps you might want to withdraw it if, in fact, the committee's language covers that.

MS. CORN: Does it?

MS. LOCKRIDGE: Yes, ma'am.

MS. CORN: Okay.

MS. FREEMAN: Your second amendment?

MS. CORN: The second part of my amendment was after the word "handicaps" put in "as determined by" and I don't care what you fill in. Now, the reason behind that--as I said earlier, I don't have children so I don't know that much about the public schools.

However, I do know that as an ANC representative some of the problems that my constituents have brought before

me and referred them to school board members.

One of the problems that was brought before me was the fact that in the District right now apparently the school is required to pay for a kid who has a learning disability.

But the teachers and the school physicians seem to be under a lot of pressure when examining a child to say, "No, that child does not have a learning disability." This is what one parent told me, Mildred. That the child does not have a learning disability because there aren't sufficient facilities in the District to take care of all of those kids with problems.

So that the teachers and the doctors that are hired by the school seem to be under pressure unless the child is so obviously retarded or obviously at a tremendous physical disadvantage to there's nothing wrong with that kid so that the kid doesn't have to go to a school other than the normal public school here that he would attend.

And I know this one parent who has been in court for almost two and a half years on this problem. Now, I'd like it here in this constitution to state who will determine that physical disability or mental or emotional or learning disability exists.

I want it clear who is responsible for saying that's

true, and can it be countered by the parents.

MS. FREEMAN: Delegate Harris.

MS. HARRIS: Delegate Corn, I'm not sure this needs five or six people to discuss. Number one is the schools along with probably a personal physician will determine that. I don't think we should be legislating a team. I don't think at this point we should be legislating who will determine this is a disability, this is not. I think (c) is sufficient, and I think we ought to have some trust in the team of professionals who will determine that. I don't think we should sit here five minutes and discuss it.

MS. CORN: Then may I change my amendment then.

MS. FREEMAN: Will you please withdraw this amendment? Well, you might make another amendment. You can try.

MS. CORN: I will withdraw the amendment but I would like to make another.

MS. FREEMAN: You may if it is seconded.

MS. CORN: I would like to start Section (c)
"As provided by law,..."

MS. FREEMAN: Is there a second to that? (No response.) Is there a second to that? (No response.) Is there a second for that? (No response.) The motion dies for want of a second. Delegate Kameny.

MR. KAMENY: I move the previous question. Section (c).

A DELEGATE: Second.

MS. FREEMAN: It has been moved and seconded that we close debate on the adoption of Subsection (c). All those in favor please say aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

(A chorus of nays.)

MS. FREEMAN: Debate is now closed on subsection (c). All those in favor of adopting Subsection (c) please say aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

(A chorus of nays.)

MS. FREEMAN: Abstentions.

(A chorus of abstains.)

MS. FREEMAN: Subsection (c) is adopted.

Delegate Lockridge.

MS. LOCKRIDGE: Madam Chair, I move for adoption of Section 4(d).

VOICES: Second.

MS. FREEMAN: It's been moved and seconded that we adopt Subsection (d). Is there a discussion? Delegate Oulahan.

MR. OULAHAN: Madam Chairman, I'm not going to repeat what I said earlier except to say that this section really shows the two-faced nature of this article. It says that the state can accept money from the federal government even though that money may go to institutions which don't have any other benefits under the article.

I think that is inconsistent and shows the weakness and the disability of the entire section.

MS. FREEMAN: Is there further discussion on the adoption? Delegate Feeley.

MS. FEELEY: Move the previous question.

A DELEGATE: Second.

MS. FREEMAN: All right. It's been moved and seconded that we close debate on the adoption of Subsection (d). All those in favor of closing debate please say aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

(No. response.)

MS. FREEMAN: Debate is now closed on Subsection (d). All those in favor of adopting Subsection (d) please say aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

(A chorus of nays.)

MS. FREEMAN: Abstentions?

(A chorus of abstains.)

MS. FREEMAN: Subsection (d) is adopted. Delegate Lockridge.

MS. LOCKRIDGE: I move for the adoption of Section 4.

A DELEGATE: Second.

MS. FREEMAN: It's been moved and seconded that we adopt Section 4. Is there discussion on that? Delegate Jordan

MR. JORDAN: Yes, Madam Chair. I think the committee has done a tremendous job and I don't want it to sound like sour grapes, but while I was out in the hall with Delegate Love, we decided that we'd ask the General Counsel about my interpretation of the section as to whether or not it would prohibit preschool programs from receiving DHR funds.

We subsequently talked to the General Counsel, and he said that it was his feeling that it would prohibit programs which are presently receiving DHR funds from receiving those funds for preschool programs.

MR. KAMENY: You mean private institutions?

MR. JORDAN: That's what I said. Now, the point I tried to make earlier was we keep arguing on this position that we are not going to provide funds, and yet we still take the dogmatic position we're not going to provide funds for children

under six years old to be educated. Yet we take a dogmatic position which says we must provide control over pre-education where the state is not going to provide it.

So all I say is, and I have to be consistent with this concept of mothers who got babies, who work, who are dependent upon those programs to provide services for their children so that they can continue to work. They might be hurt by this article, and I don't know how to get around it.

It wasn't raising it as a thorny issue. I wasn't raising it to embarrass the committee. I wasn't raising it to do anything so that we could, in all honesty, discuss it, be objective about it as opposed to being locked into an agreement that we made earlier.

Now that General Counsel is here he can stand up and speak for himself on the issue so I don't have to represent what he said, but all I am suggesting was if it is so innocuous, if it is so benign, if there's no reason to really include pre-elementary education here, because the state is not going to provide them, why did we do it? In that respect, it's going to be very difficult for me to vote for the adoption of Article 4.

MS. FREEMAN: Delegate Feeley.

MS. FEELEY: I'd like to ask Delegate Jordan a

question. Would you consider such programs as public service programs, Delegate Jordan?

MR. JORDAN: Yes, I would consider those as public service programs, but still the point I'm trying to make that it include a proviso here under section (1) that says except public service programs. All I'm saying is somebody is hurting this process.

MS. FREEMAN: Would Mr. Thomas like to respond or do you have a comment on the adoption of Section 4 of this article?

MR. THOMAS: If there is a question as to how I arrived at my opinion but I would not want to restate what Delegate Jordan said. If there is a question, I will answer it.

MS. FREEMAN: All right. Are there any questions delegates wish to ask of our General Counsel? Delegate Simmons.

MS. SIMMONS: I would like to ask the General Counsel if he considers pre-education experiences a public service program that qualifies under the definition of public service.

MR. THOMAS: Day care?

MS. SIMMONS: Day care as described by Delegate Jordan, because he clearly made it a matter of a condition, the need on the part of a parent.

MR. THOMAS: My position was based on 4(b) which says

the state shall provide no payment or credit or tax support, et cetera, to support any student at any pre-elementary schools.

MS. SIMMONS: But, Mr. General Counsel, this article includes, in Section 4 (a) before you get to (b), and (a) says exclusively controlled by the state unless--

MS. FREEMAN: That section was amended, Mr. Thomas, "unless earmarked for a program of public service".

MR. THOMAS: It would seem to me the difference in day care and preschool, whether a day care program can be interpreted as a preschool. If it is preschool, I think it clearly cannot be provided. If it is defined as a day care program, I think it would be funded.

Now, if it is a school, if it calls itself a school, I don't think it can.

MS. SIMMONS: If it is a day care program, then it is a public service.

MR. THOMAS: How does DHR define it? What does DHR do?

MS. SIMMONS: They have day care and day care begins at no special age, like six months old and it goes through 12 or 13, because youngsters who do not have someone in their home to receive them can be part of the day care program after school and before school.

MR. THOMAS: Okay. If that's how it is defined, if it's not defined as a school.

MR. KAMENY: Madam Chairman, I call the previous question.

MR. COOPER: Point of order. Madam Chairman, I've been seeking recognition for quite some time much longer than Delegate Kameny. I wish to be recognized since we have not had anybody to speak against this section anyway.

MS. FREEMAN: I think that's fair. We have not had too many to speak against.

MR. COOPER: I raise to speak against Section 4 also for several reasons. I think there are several good points in Section 4, but I think there are an overwhelming number of bad points in Section 4, too. Let me bring one of them up.

I raised an amendment earlier. Several people told me that what I was speaking to was tantamount to speaking for a tuition tax credit. Yet the committee saw fit to set forth this language, "The state may pay the private school tuition of any individual student."

Now, if that's not directly providing for a tuition tax credit, I don't know what is. And if the committee can be so fluctuated in their position as to state language in their report and accuse a delegate of making that language when he

did not say it, I think there is something seriously wrong here.

Maybe the committee did not give it the correct consideration or maybe the committee put it in there as superfluous language to achieve a specific purpose and not think of the broader issues. I would hope that my fellow delegates would vote against Section 4 because I think Section 4 sets forth some very, very bad precedences that we do not want to see set forth in this state.

MS. FREEMAN: Thank you. Before I called on Delegate Cooper, the question had been moved and we now have had two speakers for and against so we will now vote on whether to close debate on the adoption of Section 4.

All those in favor of closing debate on Section 4, please say aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

(A chorus of nays.)

MS. FREEMAN: Debate is now closed on the adoption of Section 4. All those in favor of adopting Section 4 please say aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

(A chorus of nays.)

MS. FREEMAN: I would like to have a handcount on that. All those in favor of adopting Section 4 please raise your hands.

(A show of hands.)

MR. COOPER: Twenty-one.

MS. FREEMAN: All those opposed please raise your hands.

(A show of hands.)

MR. COOPER: Five.

MS. FREEMAN: Abstentions.

(A show of hands.)

MR. COOPER: Abstentions, one.

MS. FREEMAN: Section 4 is adopted. Now, we're back on Section 3 and the amendments of Delegate Charles Mason that were presented to and I believe has distributed to the delegates at this point. You moved Section 3(d). You read them all but you had actually moved Section 3(d) as I recall, Delegate Mason. I'd like to have the committee response on that.

MS. LOCKRIDGE: Just a minute.

MS. FREEMAN: Delegate Baldwin.

MR. BALDWIN: Madam Chairperson, while the committee is waiting, I'd like to rise to what is called a point of privilege affecting this convention. For the last two nights, we've been averaging one hour per page. This convention has

two articles left, two main committee reports, ten or more articles from second reading, and they have informed us that the cutoff is next Wednesday, at least, for the completion of all first and second readings. At this snail's pace, we will never reach it.

MS. HARRIS: We are on 3(d).

MR. KAMENY: Yes. I don't have my notes.

MS. HARRIS: Shall I read it? 3(d) states--well, you have it there.

MR. KAMENY: First, we feel that all of this is covered by the general provision of powers given to the board of higher education in lines 5 and preceding it on to 9, yes, on page 5. So that it's unnecessary in that sense.

Secondly, we anticipate, in due course, a complex university structure. There may well not be a president of the state university. There may be or there may not be. There is no way of knowing.

And therefore, this is written to address a situation which may not be at all realistic in the future. Given that the powers of the board of higher education as presently set up cover the situation, we would suggest that the proposed amendment is unnecessary, redundant and should be voted down as adding extra, unnecessary language to the constitution.

MS. HARRIS: Delegate Oulahan.

MR. OULAHAN: Madam President, I specifically want to refer to proposed Subsection (d). That proposal would revolutionize the choice of presidents of the University of the District of Columbia.

I can't think of anything that would politicize that institution more than to be chosen by an elected board of higher education. That issue is now in the courts, I know. There is no need to discuss it here tonight.

But I do urge my fellow delegates before they do anything not to consider Subsection (d) because you're going to revolutionize our new burgeoning university.

MR. KAMENY: I correct Delegate Oulahan that the board of higher education is not elected.

MS. HARRIS: Delegate Kameny, you were not recognized. Let me ask a question here. Was 3(d) moved and seconded?

MS. SIMMONS: No. It's just for discussion.

MR. C. MASON: It was before the break.

MS. HARRIS: Okay. I just want to be clear. Who wishes to speak on 3(d). Delegate Simmons.

MS. SIMMONS: I do think that we ought to have the information which is before the house accurate, particularly, Delegate Oulahan, the president of the state university that is

referred to here is, right now, that is the practice. The board of trustees of higher ed appoints the president. How do you think Dr. Alexander who's arriving here July 1 got here?

MR. OULAHAN: Excuse me. Wasn't he elected by the board of trustees of the university?

MS. SIMMONS: No. A search committee received applications, and he was appointed, and they determined the length of his term, his compensation, sweetened the pot a little bit by buying \$350,000 home for him, and all of that was done by the board of higher education, the trustees for this university on whose premises we presently sit.

MS. HARRIS: Delegate Simmons is correct. I'm an employee of that university and I sat in on that, and she is definitely correct. That's how Dr. Ben Alexnader arrived at being the president of UDC.

MS. SIMMONS: And Lyonel Carter, too.

MS. HARRIS: And Lyonel Carter, too. Delegate Cassell

MR. CASSELL: As an employee of the university, I'd also like to confirm the statement made by Delegate Simmons.

MS. HARRIS: Delegate Hilda Mason.

MS. H. MASON: This is an effort, Madam Chair, to further clarify. I think what Mrs. Simmons is saying is that the board of trustees of the university appointed a search

committee.

The search committee sought and recommended the name of the person, and then the board voted approval of that person.

MS. SIMMONS: That is correct.

MS. H. MASON: That is not election. That is not election the same as the board of education does.

MS. HARRIS: Are there any other discussions on 3(d)? Delegate Mason, do you want to be the last to speak?

MR. C. MASON: This section states exactly what the present law is. The only difference is that the present board is 15 people, 11 appointed by the mayor with the consent of the council and four others, three of whom are elected by the alumni and one elected by the students.

The new board whatever its name may be as the successor of that board as outlined here has eight members appointed by the governor with the consent of the legislature plus four more slightly differently arranged, only one by the alumni and two students. The total number is 11 instead of 15.

But it's really the same board. There is no difference in what this provides from the present law. The reason that we thought that it should be in here and that it was not redundant is that it's the counterpart to a corresponding provision under the board of education.

If we mention the superintendent of public instruction, we should mention the president of the university. The fact that at some future time there might be more than one institution of higher education it seems to me is irrelevant.

I would suppose that if we establish a medical school or a law school or something else, that will still be part of the university. The same president will preside over it. There might be an additional dean or two.

It is conceivable the legislature could set up separate institutions not under the university in which case the same board could appoint more than one president, but this provides for the board doing exactly what the present board is doing in exactly the same way and in exactly the way that the board of education does with the superintendent. It's just a counterpart provision.

MS. FREEMAN: Delegate Brunig.

MR. BRUNIG: Call the previous question.

VOICES: Second.

MS. FREEMAN: It's been moved and seconded that we close debate on the adoption of Section 3 subsection (d). All those in favor of closing debate please say aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

(No response.)

MS. FREEMAN: All right. Debate is now closed.

All those in favor of adopting the Mason amendment which would mean a new section, subsection (d) for Section 3, please say aye.

(A chorus of ayes.)

MS. FREEMAN: I'll repeat that. The motion on the floor is the adoption of Section 3 Subsection (d) as moved by Delegate Charles Mason. All those in favor of adopting that please say aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

(A chorus of nays.)

MS. FREEMAN: Abstentions.

(A show of hands.)

MS. FREEMAN: The motion loses. Delegate Mason.

A DELEGATE: Division.

MR. SCHRAG: May we have a show of hands?

MR. KAMENY: People have gone out. The presence in the hall is not the same.

MS. CORN: A point of order, Madam President.

MS. FREEMAN: Delegate Corn.

MS. CORN: May I request that from here on in all votes

be taken by a show of hands unless a roll call is asked for as required by our rules?

MS. FREEMAN: No. In some cases where it's very unclear to the chair what the vote is, I will call for a division or if delegates call for a division. But there was no call for a division in advance of this, and it was really quite clear to me that there were more voices speaking against that.

The problem is at this point the people who voted on that have left the room. If the people who voted on that are back in the room, I will do a division on that question.

Delegate Long.

MR. LONG: There is no need to reply to a claim for a point of order which is not a point of order.

MR. KAMENY: I move the agenda.

MS. FREEMAN: All right. I'm going to do this division on subsection (d).

MS. HARRIS: You can't.

MS. FREEMAN: I'm going to. All those who are in favor of adopting Section 3 subsection (d) please raise your hands.

(A show of hands.)

MR. COOPER: Nine.

MS. FREEMAN: All those opposed please raise your hands

(A show of hands.)

MR. COOPER: Fourteen.

MS. FREEMAN: Abstentions.

(A show of hands.)

MR. COOPER: Two.

MS. FREEMAN: All right. The motion is defeated as called previously. Delegate Charles Mason.

MR. C. MASON: I move Section (e). Each fiscal period the legislature shall appropriate a total sum for the state board of higher education and the institutions subject to its control but not in line-item--

MS. FREEMAN: Excuse me, Delegate Mason. It's very noisy in this room. One delegate has the floor. Delegate Eichhorn, Delegate Talmadge Moore, Delegate Jordan and Love, Delegate Mason, Simmons and Schrag.

Delegate Charles Mason.

MR. C. MASON: Each fiscal period the legislature shall appropriate a total sum for the state board of higher education and the institutions subject to its control but in line-item manner. The expenditure of this money shall be under the exclusive control of the state board of higher education.

MS. FEELEY: Second.

MS. FREEMAN: Now you may speak.

MR. C. MASON: It's identical to what we adopted last night for the board of education. It's the counterpart to it, and it seemed to us that each of these boards should have this degree of autonomy.

MS. FREEMAN: Is there somebody from the committee who would like to speak to this? Delegete Feeley.

MS. FEELEY: By consensus the committee has agreed on this.

MS. FREEMAN: By consensus the committee has agreed on this. Is there any further debate on this or can we bring this to a vote.

MS. FEELEY: Move the previous question.

A DELEGATE: Second.

MS. FREEMAN: All those, please, who are in favor of adopting Subsection (e) of Section 3 please say aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

(A chorus of nays.)

MS. FREEMAN: Abstentions.

(A show of hands.)

MS. FREEMAN: The motion carries. Delegate Mason.

MR. C. MASON: Subsection (f). Any property titled in the District of Columbia or in the State of blank and used by or acquired for the use of the trustees of the University of the District of Columbia or any of its predecessor institutions or of the state board of higher education shall henceforth be deemed to be titled in the name of the state board of higher education of the state of blank.

I so move.

A DELEGATE: Second.

MS. FREEMAN: Is there a discussion? Delegate Kameny.

MR. KAMENY: I raise the point here which may have legal implications and I think are likely to that the board of higher education is not in relevant matters here parallel to the board of education.

The board of higher education or the system of higher education is created as a public trust under line 1 of page 5, and the board of higher education is a body corporate, and I'm not enough of a lawyer to know all of the overtones but I have a strong feeling they impact directly on what you are proposing here, and I think, therefore, we should walk with greater care than simply invocation of a parallellism.

MR. C. MASON: What you say is true but it acts in favor of this rather than the other way around. It is a body

corporate. The present law permits that body to hold real estate, but the District Government asserts that real estate previously acquired does not belong to them, that it belongs to the District Government in general.

And the purpose of legislation introduced in the council by Hilda would be to correct that. The only lands that I know of that are now owned by the university, and everybody admits that they are, is this new house that's been bought for the president which does belong to it.

But I believe that any lands or buildings which were acquired by the District of Columbia for the university or its predecessor institutions, Minor Teacher's College, D.C. Teacher's College, Wilson Teacher's College, Federal City College, et cetera, should be considered university property just as we are not considering the school property school property.

And as I say, the point brought by Delegate Kameny tends to support this even more. I think if he has any legal questions, he might ask the General Counsel.

MS. FREEMAN: Does the General Counsel have anything to say on this section?

MR. THOMAS: I'm sorry. I'm not up with this section. I do not have a copy of the proposed amendments.

MS. HARRIS: I have a question for Delegate Mason, but before that, I just want to make a statement, and that is a lot of the buildings that were used by the predecessor institutions, Federal City College downtown, were rental buildings.

The Van Ness Campus is one of the few owned lands, but as I understand presently, all of the buildings that are being used by the university are under the name of the University of the District of Columbia, and at this time, there are no predecessor institutions.

So I'm wondering if that phrase is out of order in this amendment.

MR. C. MASON: Unfortunately that is not true. The fact of the matter is that the only property now titled in the university is that house. The Minor Building and the Wilson Building are titled in the District of Columbia.

The Department of General Services gets out a big book which lists every parcel of land belonging to the District of Columbia, and it still identifies these properties as assigned to the board of education not the university, not the old board of higher education. That's an error but that's what it says.

But the point of the matter is nobody can considers

these as belonging to the university. As for Van Ness Campus, the land on which that is located still belongs to the United States. It was the Bureau of Standards property. It was never transferred to the District of Columbia. There was a lease agreement which permitted the buildings to be built upon it, but it still belongs to the United States.

The leased buildings obviously are not covered by this. The buildings that are covered by this are Minor and Wilson plus a very important piece of property at Mt. Vernon Campus including the Carnegie Library and the four blocks immediately north of that.

The one important reason for having this here is that if some arrangement is consummated with a developer as was proposed to develop the four blocks north of the library, the Carnegie Library, the arrangements being that the developer could use part of the property, of the buildings, some of the space, and the university could use other space, and at the end of the lease, then the whole thing ought to belong to the university.

If we do not adopt something like this, the whole thing will belong to the general government of the state and not to the university, and I want to be sure that that property ends up the property of the university.

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MS. HARRIS: Okay. I understand that, and you're very right. But what I'm saying is that won't the Minor and the Wilson buildings be buildings of UDC not D.C. Teacher's College--

MR. C. MASON: Well, yes, they are.

MS. HARRIS: --and when you use the term "predecessor institutions" are you not referring to colleges that are no longer in existence?

MR. C. MASON: They are currently used by the university. They were formerly used by the predecessor institutions. I put the predecessor institutions in only to say that whatever title somebody has done on them we need to include them. We don't want to have them say, "Well, they don't have anything to do with the university because the university didn't exist when they were acquired.

The only reason for mentioning the predecessor institutions is to prevent any such possibility. Just to cover all angles.

MS. FREEMAN: Delegate Brian Moore.

MR. B. MOORE: I am going to abstain on the vote on this amendment on the floor. This evening I have recorded a significant number of abstentions in the education article as I did last night.

And I fail to appreciate the lengthy paragraphs and wordings that we have had in the educational sector. It is my understanding that many of the state constitutions do not even address education.

The model constitution gives us about a paragraph or two, and Mr. Thomas, our counsel, has stated that we are too detailed, and because of the detail, we will prevent flexibility in future years.

So even though this provision may be harmless, I just feel it weights down the constitution, and I wish to go on record as abstaining on this issue and other issues.

MS. FREEMAN: Delegate Love.

MR. LOVE: As you know, there is legislation before the city council now on the disposal of school lands. We are repeating the whole debate right here.

What Mr. Mason is proposing is legislation. It is inappropriate here. What it does is it ties down the university in terms of future development as to what can be done.

We've written a short, flexible article. It is being lengthened by--

MS. FREEMAN: Excuse me, Delegate Love. There's not enough attention on the floor for this. Delegate Jordan, Coates, Corn, can we have it quiet in this room. Delegate Love.

MR. LOVE: Our debate is centered around which buildings will go where. It is totally inappropriate for the constitution. I would urge people to vote against it so we can finish education and move on. We have a long way to go.

MS. FREEMAN: President Cassell.

MR. CASSELL: I want to summarize what Delegate Mason has said. First of all, I think that the amendment is very necessary. The University of the District of Columbia owns no property save one, and that is the president's house that was just bought for him out of funds that were not appropriated for buying a house. It was university funds.

Now, if the city government should decide today that for whatever reason it wanted to sell anyone of those buildings, on the campus at Van Ness or downtown, it legally has the authority to. It has an agreement or understanding that it won't do that as long as the university opposes that.

But the university cannot be stable, and it cannot make its plans unless it has control of its property. This is an entirely appropriate thing. It is a right that should be in the constitution, and there's no time at which for any expediencies it should be necessary to change that.

The university has this money appropriated for its own use. The city cannot spend it for anything else. They

can only buy for the university's use. There's no reason why it shouldn't remain in the university's stables.

I'm saying it's very necessary. When I was on the board of education, we were constantly concerned and I think they're concerned now about the fact that the city government even today, even as we stand here, they would like to get rid of certain schools that are opposed by the school board. The schools should not be in that position.

I urge you support the amendment.

MS. H. MASON: Madam President, the president of the convention has said almost exactly what I was going to say, except that I would like to add that the University of the District of Columbia is a land-grant college, and that land-grant colleges do own title to their land and can even get into economic development.

There's a very good section on this in the Hawaii constitution which is almost the same as we are recommending here, and I urge you delegates to vote favorably on this recommendation.

MS. FREEMAN: Delegate Brunig.

MR. BRUNIG: I move the previous question.

VOICES: Second.

MS. FREEMAN: It's been moved and seconded that we

close debate on subsection (f). All those in favor please say aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

(No response.)

MS. FREEMAN: All right. We've not closed debate on Subsection (f). All those in favor of adopting Subsection (f) please say aye.

(A chorus of ayes.)

MS. FREEMAN: All opposed.

(A chorus of nays.)

MS. FREEMAN: Abstentions.

(A chorus of abstains.)

MS. FREEMAN: Subsection (f) carries.

Delegate Mason.

MR. C. MASON: When I first came up here an hour or so ago, I pointed out that Section 3(g) appears here in three versions, and I agreed to offer whichever one of the three the committee thought more desirable.

Last night after our discussion about the corresponding provisions for the board of education, I was told by several delegates, including one or more on the committee, that the concern about getting legislative approval for the leasing

of properties related to long-term leases. They were not concerned about short-term leases which could be only a use agreement for five days to hold a bazaar or something in the school gym, to subject those things to the long provision of having to go through the legislature would be very bad.

If it is the feeling of the committee that long term leases should be done by legislative approval and sales, then I would offer the third alternative here.

If it is the opinion of the committee that only sales should require legislative consent, I will offer the second alternative. If it is the opinion of the committee that the board should be able to act in all leases and all sales, I will offer the first.

But I would like the committee's view on the matter before deciding which one to offer.

MS. FREEMAN: Delegate Lockridge.

MR. LOVE: The option we voted last night is not here.

MR. C. MASON: The option you voted last night would be the same as the third one.

MR. LOVE: It should be rent, lease, or sold.

MR. C. MASON: It would be identical. In effect, it would be the third one without specifying the number of years, but it was my understanding that the objection last night was

not with the idea of leases; short leases weren't objectionable.

MS. FREEMAN: Does the committee have a decision or does the committee need to recess?

MR. FEELEY: The chair of our committee will read the language just substituting the state board of higher education. All the rest of that would remain the same.

MS. FREEMAN: Thank you. Delegate Lockridge.

MS. LOCKRIDGE: The state board of higher education shall control the purchase, the sale, lease and rental of its buildings and lands with advice and consent of the legislature.

MS. FREEMAN: The committee is moving that.

MR. LOCKRIDGE: Yes.

A DELEGATE: Second.

MS. FREEMAN: All right. It's been moved and seconded that we have the subsection (g) which will read as follows:

The state board of higher education shall control the purchase, sale, lease and rental of its buildings and lands with the advice and consent of the legislature.

Delegate Kameny.

MR. KAMENY: I call the previous question.

MS. FREEMAN: No. I think I'd like Delegate Mason to respond to that. Delegate Mason.

MR. C. MASON: I would like to call attention to the fact that if that language is used, a three-hour or three-day use agreement would require approval of the legislature. I would have suggested my third alternative with any length of time that the committee might want, whether it be one year, ten years, but it seems to me it would be tragic if we required the legislature to approve very short-term leases or lease agreements or rentals.

MS. FREEMAN: Delegate Simmons.

MS. SIMMONS: I thought what we were trying to do is make this compatible and consistent with the powers that are given for lease, rent, purchase and sale of property by the state board of education.

And if that is the case, last night we amended this so that the only time we need the advice and consent of the legislature is when it is sale.

MR. C. MASON: No, we didn't. That was voted down unfortunately.

MR. SIMMONS: I think that's outrageous because just now, for example, when a school right now wants to let someone use a building, one room for three hours on a day to have to have the legislature come into session and approve that is an inordinant waste.

MS. LOCKRIDGE: That's what they voted on last night.

(Simultaneous discussion.)

MS. FREEMAN: Excuse me. One person has the floor right now. That is Delegate Simmons.

MS. SIMMONS: I really have written mine incorrectly last night, because I had sale as being the only basis that needed advice and consent of the legislature.

MS. FREEMAN: Delegate Mason, did you want to move a substitute motion? We have one motion on the floor right now that was moved by Delegate Lockridge. Delegate Mason, I'm asking whether you want to make a substitute motion.

MR. C. MASON: I move to substitute the third alternative here which is the state board of higher education has control the purchase, sale, lease and rental of its buildings and lands and shall have the power to receive and use any rents, income or proceeds of sale received there from. However, no such buildings or lands shall be leased for a term of more than five years or sold except by consent of the legislature.

MS. FREEMAN: Is there a second to that?

A. DELEGATE: Second.

MS. FREEMAN: It's been moved and seconded that we have the substitute motion on the floor which reads as the third alternative choice on this sheet that you have before you.

Delegate Love.

MR. LOVE: Mr. Mason is redoing an argument we spent 45 minutes on last night and slowing us down. He is now proposing an alternative which would mean that the lands that were controlled by the university would be dealt with differently than the lands controlled by the elementary and secondary school education school board.

He claims that with the advice and consent means that every time you rented a room for three hours you'd have to go to the legislature. That is untrue. He knows well enough what enabling legislation is.

The legislature could write in any certain minimum before it had to worry about things, and I think we are going through a debate we already had. We are about to put in two totally different sections which are going to be very confusing later on.

I would urge you to vote against both amendments. But if you're going to vote in favor of one vote down Mr. Mason's and vote in the committee's proposal which has already been voted on for the public education board.

MS. FREEMAN: Delegate Hilda Mason.

MS. H. MASON: Madam Chair, I speak in favor of the motion. Yesterday's committee on government operations of the

Council of the District of Columbia voted favorably on the leasing parts so that the board of education of the District of Columbia would not have to come to the council when it wants to lease property.

It has not gone to the council yet, but it has gone to the committee. The discussion that Mr. Love just said that Mr. Mason is making the same motion. It is not the same motion.

Last night we discussed the board of education not the university. Today the university is occupying us, is that correct, Madam Chairman? Isn't it the board of higher education which is the university? All right.

It sounds a little inconsistent to say that the board of higher education shall have title and control and yet you cannot lease without having the advice and consent from the council,

And you do not know how long that would take to get the council to give advice and consent. You have to go through a long process, hearings and all of that before you can have advice and consent.

There are all kinds of community groups, and I understand the board, the state board, has already discovered there is a large population in the District of Columbia who

would like to use the schools.

I am sure that they would not want that attacked so that everything they do--I don't know if the PTA wants to meet at night in the school, I don't know what it means.

I think we should be very clear when you do a constitution, and for me it is very clear to say that the board of higher education has title, has control. And I do not mind the part that says some years back as relates to the leasing. I do not want the property to get out of public hands.

MS. FREEMAN: Delegate Lockridge.

MS. LOCKRIDGE: Might I ask the General Counsel from the chair?

MS. FREEMAN: Yes, you may.

MS. LOCKRIDGE: In the committee's language as proposed by me, would short-term leases be covered in that?

MR. THOMAS: Would short-term leases be covered in this provision? I kind of doubt the enabling legislation argument. It seems kind of clear from the language here that the higher board of education would have to get the consent of the legislature whenever it wanted to sell, lease or rent its buildings.

Now, they may want to write something as to what

consists of consent, but I see this wording as very stringent here. And I agree with the comments of Mr. Mason that it would pretty much handcuff the higher board of education from short-term leasing and renting.

A VOICE: Hours?

MR. THOMAS: I think the language here speaks for itself. If you want to provide exceptions put it in. If you want to say as prescribed by law do so.

MR. LOVE: Why don't we just move as prescribed by law.

MS. FREEMAN: There is a substitute motion on the floor. Is there any further discussion on the substitute motion? (No response.) Shall we vote on this? The substitute motion that is on the floor is to adopt Subsection 3(g) with the third alternative choice for the language. Is everybody clear on that? I'm going to call a vote on that now.

This is the substitute for the committee's motion that we adopted, and I'll have to read it so that's clear because it's not written down. The committee's motion was that we adopt the following:

The state board of higher education shall control the purchase, sales, lease and rental of its buildings and lands with the advice and consent of the legislature.

Now, the substitute motion as moved by Delegate Charles Mason is to adopt 3(g) with the third alternative choice. All those who are in favor of the substitute motion to adopt the third alternative choice please say aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

(A chorus of nays.)

MS. FREEMAN: Abstentions.

(A show of hands.)

MS. FREEMAN: The substitute motion carries.

Delegate Lockridge, I think we're ready to move the whole Section 3.

MS. CORN: A point of information, please.

MS. FREEMAN: Delegate Corn.

MS. CORN: May I ask one question of the chair?

MS. FREEMAN: Is it appropos of Section 3?

MS. CORN: Yes.

MS. FREEMAN: Yes.

MS. CORN: Delegate Lockridge, in the language that you have--

MS. FREEMAN: Wait a minute, Delegate Corn. I thought you were asking me a question. Delegate Lockridge has not even moved the adoption yet of Section 3.

MS. CORN: May I ask a question pertinent to Section 3 prior to calling a vote on Section 3, prior to calling the vote on the whole section.

MS. FREEMAN: Yes, I will call on you. I am calling on Delegate Lockridge right now to move this section.

MS. LOCKRIDGE: Madam Chair, I move adoption of Section 3 as amended.

A DELEGATE: Second.

MS. FREEMAN: It has been moved and seconded. Delegate Corn.

MS. CORN: I would like to ask the chair one question. In the language that the committee has for setting up minimum required standards or required standards--

MR. KAMENY: That's Section 2.

MS. CORN: All right. In doing that--

MS. LOCKRIDGE: That's not in Section 3.

MS. FREEMAN: Delegate Corn has the floor, please.

MS. CORN: May I ask this? In the whole section, then, on education does it preclude the idea of regents examinations or not like they have regents examinations in New York?

MS. FREEMAN: Delegate Corn, that really is not appropos of Section 3.

MS. CORN: Can the chair instruct me when I may ask that?

MS. FREEMAN: That would have been appropos of Section 2 which we adopted last night. It's really out of order at this point. The only time you might ask that is when we move to adopt the entire section.

MS. CORN: Would you please recognize me then?

MS. FREEMAN: Yes.

MS. CORN: Thank you.

MS. FREEMAN: Is there any further discussion on the adoption of Section 3? (No response.) All right. Delegates, I'm going to bring this to a vote. All those in favor of adopting Section 3 please state aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

.(A chorus of nays.)

MS. FREEMAN: Abstentions.

(No response.)

MS. FREEMAN: Section 3 is adopted.

Delegate Lockridge.

MS. LOCKRIDGE: Madam Chair, I would like to move the adoption of the article on education and the report.

A DELEGATE: Second.

MS. FREEMAN: It has been moved and seconded that we adopt the article on education and its report. Is there discussion on that? Delegate Corn.

MS. CORN: Let me just ask Mrs. Simmons. You are saying in the New York State constitution they don't have anything about the regeants exams.

MS. SIMMONS: That's right.

MS. CORN: And therefore, the language in here would not preclude having regeants.

MS. SIMMONS: That's right.

MS. CORN: If they want to they can?

MS. LOCKRIDGE: That is administrative, sweetheart.

MS. SIMMONS: What I wanted to rise to is to the chair of this committee I wanted to know if it is appropriate to have the drafting and styling committee, to delegate to them the authority to make consistent the functions of the state board of education and the functions of the board of higher education.

MR. KAMENY: No.

MS. SIMMONS: Wait a minute, Delegate Kameny. I'm not asking you first, but let me finish my sentence. The issue that I specifically relate to is that we have said just now and past that the state board of education must have advice

and consent of the legislature when a lease is for five years or more and if they are going to sell a property.

I heard lots of dialog last night being concerned about potential corruption by such a small number of people with regard to real estate interests, et cetera. Now, I listened to that dialog.

I'm suggesting that based on the amendment which has just been approved tonight that the state board of education with regard to its buildings that that same requirement be included, that if the building is to be leased for what, quote, what is called long-term, about five years maybe, and if it is to sell property, that it then also have the advice and consent of the legislature as it presently stands.

MS. FREEMAN: Excuse me, Delegate Simmons. There's a point of order. Delegate Kameny.

MR. KAMENY: What Delegate Simmons is proposing as a reconsideration is out of order. I think we should not spend more time on it, worthy or unworthy as her comments may be, it is out of order. It is a reconsideration of matters that were disposed, were debated and disposed of. It is a reconsideration. It is out of order.

MS. SIMMONS: Madam Chair, I reject the designation by Delegate Kameny that this is out of order and that it is

out of order and that it is reconsideration. I submit that it is acting for consistency in the document and saving time by asking this body before it leaves the delegation to allow that consistency to be made by the styling and drafting committee, and therefore, saving time.

And if good friend Kameny didn't interrupt so much we would save a lot of time. (Applause.)

MS. EICHHORN: Point of information.

MS. FREEMAN: Delegate Simmons, are you speaking for the committee?

MS. SIMMONS: No. I was asking that of the chair.

MS. EICHHORN: May I ask a point of information?

MS. FREEMAN: Delegate Eichhorn.

MS. EICHHORN: I wonder if Delegate Simmons realizes that consistency would include having the higher board of education elected from geographic districts.

MS. SIMMONS: I said functions. I said very precisely. Madam Chair, my language was very precise. I chose my words carefully in spite of my distractions up here.

A DELEGATE: What's the ruling of the chair?

MS. EICHHORN: I also believe it's reconsideration if it's one point that is not a matter of style.

MR. KAMENY: Thank you.

MS. FREEMAN: I am going to rule I think it is indeed reconsideration. I think if there are inconsistencies there that style and drafting can bring it back before this floor or this body may choose to correct those inconsistencies as amendment on the second reading. Delegate Kameny.

MR. KAMENY: I call the previous question.

VOICES: Second.

MS. FREEMAN: All right. It's been moved and seconded that we close debate. All those in favor please say aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

MR. ROTHSCHILD: I would like to speak against. I don't believe there was any.

MS. FREEMAN: That's fine. There have not been, and Delegate Rothschild is correct.

MR. ROTHSCHILD: I speak against the article on education for the following reasons. It's too wordy. It is too lengthy. It is too detailed. It is just the type of thing we do not want in our constitution. It has been spoken to that the tax credit initiative is basically the thing that has guided the committee in setting up these stringent controls in education.

I do not agree with that. I think the tax credit

initiative spoke to one aspect of public funds going into private education.

We might look at, for example, the initiative on gambling. As you remember, the original initiative on gambling was turned down, but when it was found out why it was turned down, it was voted up the second time around.

So what I am saying is that the initiative on the tax credit for education was turned down because people didn't want that particular way of putting public money into private education. But it is not a clear statement that the public does not want any money forever to go into private education in any form, be it a voucher or whatever.

I also think that Julius Hobson for a long time struggled for rights and democracy in this city, and I think he did a great job in advancing the cause of democracy, particularly in the public education sector.

However, I don't think we should be writing a document merely by looking at history. I think the fact that Julius Hobson brought us that far should not limit us in our future endeavors in the area of education.

And I think that by some of the things that we have in this article, and there are many things I would agree with, we are foreclosing the changing and creative future in

education and we are knocking out options that we might want to consider in the future, and that's it.

MS. FREEMAN: Debate has been closed and there now has been speakers on both sides. All those in favor of adopting the article on education and its report please say aye.

(A chorus of ayes.)

MS. FREEMAN: All those opposed.

(A chorus of nays.)

MS. FREEMAN: Abstentions.

(A chorus of abstains.)

MS. FREEMAN: The article and its report are adopted. Thank you, Delegate Lockridge and committee.

(Applause.)

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Before the committee on local government comes up to present its article, I would recall Delegate Jones who has a report to make. Could the committees make their transition quietly? We need to use every second we've got.

MS. JONES: Good evening. I'd like to remind the convention, the delegates to the convention, of something that we've talked about, and I will continue to talk about it until the end of the convention, and that's the budget.

From the beginning of this convention until the end

of this convention, we have projected that the court reporting will cost \$27,000. The mayor has paid six thousand six hundred

MS. HARRIS: Will you please give Delegate Jones your attention?

MS. JONES: Delegate Simmons and Delegate Charles Mason, I need for you to hear this, please.

MS. SIMMONS: I hear you. I'm not talking.

MS. JONES: We have projected that the court reporting will cost \$27,000. The mayor paid \$6,660 of it. The convention has paid \$3,732 of it. That means that we owe approximately \$17,000.

When we add the public hearing bills to it, we get to \$17,623. The secretary bills to date are \$3,322. That's \$20,945 we owe. Now, I don't remind you of this to stop anybody from talking, but I remind you of it for you not to waste the money and the time.

They're some of you in here who are particularly interested in wasting the taxpayers money, and you are always complaining about it, and I wish you would not add to wasting our money here at the convention, because that belongs to the taxpayers, too. (Applause.)

If there are any questions I can answer at this point, I will try. Brian.

MR. B. MOORE: Are you saying that even though we're costing an awful lot of money, are you implying that we will run out of money before we complete our task?

MS. JONES: We are going to be there on a hair's breath if we get there at all without running out of money. It's close. Any other questions I can answer? Delegate Baldwin

MR. BALDWIN: Approximately how much are we spending right now on the court reporter? I have heard different things, anywhere from \$500 to \$10,000.

MS. JONES: We projected \$500 a night for court reporting. On May the 13th and May the 14th, we broke the record at \$1,005. That's four nights. We did that in two. May the 17th, \$837.50. All I'm saying to you is that when we get up to like 250 pages, \$825, we could do it for less than that. I know we can.

So please think carefully about what you're raising, what your saying and whether or not it's going to be popular or not be popular, if you could possibly do that and try to keep it down.

Are there any other questions? Thank you for your time.

MR. CASSELL: Delegate Jones, thank you very much. I hope we'll take that to heart, especially those people who are clapping. Yes. I have several things to say. I want to

commend the delegates for the fact that we are accelerating our pace now. We're doing much better in this past week than we have been doing.

Especially I wanted to commend the finance and taxation committee which completed its report in one day. I fear that we're beginning to slip behind again. Let me tell you what we have done and what we have yet to do and how much time there is left.

We've had one second reading, the preamble, and that is only have the preamble and rights. We've had a first reading on the following articles, executive, judiciary, legislature, finance and taxation, education, economic development, suffrage and a portion of local government, and that is the intergovernmental relations portion. The other two parts of that have yet to be read.

We've had nothing yet on health, housing and social services. We've had nothing on the rights portion of the preamble and rights. Now, let's total up what we have in the way of first article readings, first readings of articles.

We have seven articles plus one partial article and that's intergovernmental relations. That's the only thing we've done on firsts. On seconds, we've got one partial; that's preamble. This is what we have yet go to. We have

two and a third first readings to do yet.

We have nine and a half second readings to go. We have ten third readings to go. That's a total of $21 \frac{2}{3}$ readings of articles. And we have eight days to go assuming that we do not meet this Sunday. That is eight days.

That's tomorrow which is Friday and Saturday, and then six days of next week. Next Saturday is the 29th. Now, it's obvious to me that the current pace will not allow us to complete an average of three articles a day.

Now, we made a decision as a body not too long ago that we would make a strenuous effort to complete the work that we had to do within the time frame. There was much debate during the request for an extension of time that if we did that that the time would be doddled away and that we really wouldn't use that effectively.

I think we've made an effort, but certainly we're not succeeding. We have to think about what happens when we get to May the 29th if, indeed, we have not completed three articles a day starting tomorrow.

Those $21 \frac{2}{3}$ articles would have to be completed starting tomorrow. We will be doing local government tonight. I urge you to stay here and I urge you to limit your debate. I urge you to think that more importantly than exercising our

right to debate at length is to complete the document. The exercise is not as important as completing the document. I think we all recognize that the public who elected us was not really thinking about a constitution.

We were elected to aid and abet the process of becoming a state. It just happens that one of the things you have to do to become a state is to write a constitution. But I don't think they would tolerate people who spent their 90 days in delayed actions or were not able to make the necessary adjustments after having made a big issue of it themselves.

So I'm urging you that we need to finish this article tonight and we've got to speed up our actions so that we get at least three articles done a day. Now, the difficult thing is that 2 2/3 of those are first readings, and those first readings are going to have to be sped up, and the second readings certainly we can do in a matter of a couple hours or so or less. And the third readings should really be unnecessary. We may even have to dispense with those, Madam Chairman.

MS. SIMMONS: Information please.

MS. FREEMAN: Delegate Simmons.

MS. SIMMONS: What the president is sharing with us raises a question in my mind. Did this body decide to meet all day any days other than upcoming two Saturdays, this one

and the next one?

MR. CASSELL: No, it has not nor has such been proposed to my knowledge.

MS. SIMMONS: All right. Is it your judgment, Mr. President, that with the caution that you have given to the body that there is reasonable expectation that the second readings, the third readings and the conclusion of these first readings will, indeed, be accomplished within the next eight days and two hours?

MR. CASSELL: It is my considered judgment that, at the current pace, that it will not. It is also my considered judgment that the current pace will not be accelerated sufficiently to allow us to finish by May 29th.

MS. SIMMONS: Would it be in order, then, to place before this body a determination that we meet all day two days in addition to the two full days on Saturday as opposed to our continuing at the 4:00 to 10:00 pace?

MR. CASSELL: I'm very happy that you're looking for a solution. I think the problem would still be with us, and that is the pace at which we move. One of the reasons that the body voted down the request of the extension is that they thought that the time would be wasted.

Now, if we cannot speed up the pace, I don't know that

two full days is really going to help. It certainly wouldn't allow us to do 21 2/3 readings, 2 2/3 of which are first readings. And we've never gotten past a first reading in less than one day. So I don't know that there is a proposal before this body at this time which would remedy our situation.

I think as intelligent people that we're going to look rather foolish if we get down to the 29th having rejected one particular solution and then to announce that we need more time or that we have not completed.

Delegate Baldwin has made a schedule for us. The executive committee met. The chairpersons met, and they decided that more time was necessary. I asked Delegate Baldwin, in concert with the rules and calendar committee to come up with a new proposal with new time frames and new limitations, and he placed that before you, and we voted for that, and we have not conformed to it yet.

So I think at this point it's necessary to let us know that we're simply not going to make it. I hate to say that. I hate to say that with press sitting here. But I'd rather say it here so that we have an opportunity with the president having made that statement to remedy it.

Now, you know what will come out in the Post tomorrow, and I know what will come out in the Post tomorrow. Now, we

have to face that, but we haven't faced it up to now.

Delegate Baldwin.

MR. BALDWIN: I concur with the president 100 percent. We are not going to meet it. We are not going to meet those deadlines. There are delegates sitting out there now with two and three amendments to second reading. The very first thing, they're out of order. They shouldn't be. We refused to follow our rules as far as second readings is concerned so we will not meet the deadline for May the 29th.

You can meet all day starting Monday. First, we aren't going to do it anyway. We came here last Friday at 8:30, and we didn't get the quorum. We set these meetings for 4:00, and on an average we've been calling the meeting to order at 5:30.

So what makes you think the last three or four days we will go at it 13 and 14 hours a day. We are not. Therefore, we are not going to meet the deadline. And we could, yes. You'd have to forget those amendments, but you are not going to forget them. You keep trying to bend the rules to say--the rules specifically states as it refers to second reading only two circumstances should there be an amendment.

One is when they find inconsistency, and that should not take much time. Secondly, when the chairperson of that

particular committee will agree to it, and we even knocked that out now. And you still got your amendments now waiting for us to come back on the floor.

Therefore, Mr. President, I concur with your remarks. We are not going to meet the deadline.

MR. CASSELL: Thank you. Let me say--and we can't spend too much time on this because that isn't going to help us either. But at the end of our meeting tomorrow, I'm going to make a proposal, no proposals having been forthcoming at this time.

And I would hope that the proposal would be given serious condition, and if it isn't considered to be a valid one that we come up with something which is better than the way we're functioning now.

Delegate Schrag, and then I think we better move back on.

MR. SCHRAG: Mr. President, I agree with your assessment of the situation that it is grave, but I want to go into one concrete detail about one aspect of it, and that is I think the problem on third readings is not as bad as you stated it, but the problem with second readings is even worst than you stated it.

The reason I say that is that as I understand the rules